

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEVADA  
LAS VEGAS DIVISION

✓  
2012 JUN 14 P 12:20

UNITED STATES OF AMERICA C  
Plaintiff/Respondent C Case No:2:10-cr-00520-RJJ  
V. C 2:09-cr-00078-JCM-RJJ-2  
Shaw Talbot Rice C  
Defendant/Petitioner C copyrighted 2012  
C

Petitioner's Motion to Dismiss the Pleadings and Indictment  
Issued by the Government with Prejudice for Lack of Standing and  
No Real Party In Interest

Comes now Shawn Talbot Rice, in propria person, and would show this Honorable Court the following, to wit;

On 3/3/09 Petitioner was indicted, charged with one count of conspiracy to commit money laundering, 18 USC section 6156(h) and 2 counts of money laundering, 128 USC section 1656(a) (3)A and Aiding and Abetting.

A warrant was returned executed on 3/6/09.

Petitioner is currently pretrial.

Petitioner was charged by UNITED STATES OF AMERICA [sic], which, accordingly is not a proper party and has no standing to appear. UNITED STATES OF AMERICA is a third party enterloper.

While Congress has conferred legal standing on the "United

1 States" to sue and be sued at 28 USC sections 1345 and 1346,  
2 respectively, no Act of Congress has conferred comparable legal  
3 standing upon the entity called 'UNITED STATES OF AMERICA  
4 [sic]". Nowhere does Title 28 USC section 1346 provide for  
5 "UNITED STATES OF AMERICA" [sic], to appear on behalf of the  
6 United States federal government.

7  
8 "United States" appears roughly 23,870 times in the U.S.  
9 Code while "United States of America" appears roughly 830 times  
10 (including titles, notes and references). In no instance is  
11 "United States of America" explicitly defined as synonymous with  
12 the "United States". In fact, it is explicitly distinguished  
13 from the "United States" and the federal government in several  
14 locations.

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16 The term "United States of America" appears in the Front  
17 Matter of the U.S. Code, in Articles of Confederation, 1777  
18 A.D., where "United States of America" was clearly defined as a  
19 "Stile" to describe the Union formed by those Articles:

20  
21 "Articles of Confederation and perpetual Union between the  
22 States of New Hampshire, Massachusetts bay, Rhode Island and  
23 Providence Plantations, Connecticut, New York, New Jersey,  
24 Pennsylvania, Delaware, Maryland, Virginia, North Carolina,  
25 South Carolina and Georgia."

26 "Article I. The Stile of this Confederacy shall be the  
27 United States of America."

1 "Article II. Each state retains its sovereignty, freedom,  
2 and independence, and every power, jurisdiction, and right,  
3 which is not by this Confederation expressly delegated to the  
4 United States, in Congress assembled."

5 Articles of Confederation, 1771 A.D. [Underlines added]

6 When the original thirteen (13) States formed a Union of  
7 several (plural) States, they called the union "The United  
8 States of America". Article II went on to distinguish "The  
9 United States of America" from "United States", declaring that  
10 each state retained rights not expressly delegated by the  
11 Confederation to the federal government, which it clearly  
12 identified as the "United States".  
13

14 In harmony with the Founder's original intent, the "United  
15 States of America" still means the union of, now, fifty (50)  
16 States, while "United States" still means the federal  
17 government. This could not be changed by any legislation.  
18

19 In *Eisner v. Macomber*, 252 US 189 (1920), the US Supreme  
20 Court told Congress that it was barred from re-defining any  
21 terms that are used in the federal Constitution, from which it  
22 derives its power to legislate. "United States" occurs in  
23 several places, because it is central to the entire purpose of  
24 that Constitution. Any legislative attempt to re-define "United  
25 States" to mean "UNITED STATES OF AMERICA" [sic], or vice versa,  
26  
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1 would necessarily be *unconstitutional* as it violates the *Eisner*  
2 *Prohibition*.

3 "United States" is the term that is used consistently  
4 throughout Title 28 to refer to the federal government domiciled  
5 in the District of Columbia. There is only one place in all of  
6 title 28 where the term "United States of America" is used, and  
7 there it is used to correct contradistinction to "United  
8 States", see 28 USC section 1746(1).

9  
10 Because Title 28 contains statutes which govern all federal  
11 courts, the consistent use of "United States" and never "UNITED  
12 STATES OF AMERICA" [sic] when referring to the federal  
13 government, carries enormous weight. Title 28 is the latest  
14 authority on this subject, as revised, codified and enacted into  
15 positive law on June 25, 1948. Moreover, the Supremacy Clause  
16 elevates Title 28 to the status of supreme law of the land. No  
17 amount of D.O.J. shenanigans, case law, or bench dictum can  
18 trump Supreme Law.

19  
20 "This Constitution, and the Laws of the United States which  
21 shall be made in pursuance thereof; and all treaties made, or  
22 which shall be made in pursuance thereof; and all treaties made,  
23 or which shall be made, under the authority of the United  
24 States, shall be the supreme law of the land; and the judges in  
25 every state shall be bound thereby, anything in the constitution  
26  
27

1 or laws of any state to the contrary notwithstanding."

2 Article VI, Clause 2, U.S. Constitution [Underline added].

3 It is especially significant that when the federal  
4 government appears before the U.S. Supreme Court, it does so as  
5 'UNITED STATES and not the aberration 'UNITED STATES OF AMERICA"  
6 [sic].  
7

8 If the prosecutor in this case is, in fact, appearing on  
9 behalf of the federal government, he should be appearing for the  
10 "UNITED STATES" and not "UNITED STATES OF AMERICA" [sic]. But,  
11 because the prosecutor, is, instead, appearing for 'UNITED  
12 STATES OF AMERICA" [sic], which is not a real party in this  
13 instant case, the prosecutor's Notice of Appearance and  
14 subsequent filings must be stricken.  
15

16 Making matters more confusing, "UNITED STATES OF AMERICA"  
17 was chartered twice in the State of Delaware (since revoked) and  
18 has since appeared in various permutations accompanied by "LLC",  
19 "INC", or "CORP", etc., in other States across the Union. For  
20 example, Washington Secretary of State has "UNITED STATES OF  
21 AMERICA". "Certificate[s] of No Registration" are available for  
22 the Court.  
23

24 It would appear that the prosecutor is attempting to  
25 represent a foreign entity. Stranger still, it would appear  
26 that the prosecutor is representing an unregistered foreign  
27

1 entity, without any powers to do so. Compare 28 U.S.C. section  
2 547, which confers powers of attorney to represent the "United  
3 States " but nowhere "UNITED STATES OF AMERICA" [sic]. It is  
4 not clear why the U.S. Department of Justice would not wish to  
5 invoke the jurisdiction of the "United States", which is the  
6 only jurisdiction Congress has conferred upon it.

7  
8 Again, it is significant that when the federal government  
9 appears before the U.S. Supreme Court, it does so as "UNITED  
10 STATES" AND NOT "UNITED STATES OF AMERICA" [sic]. We ask then,  
11 why did it not do so in this case.  
12

13 We see in Article III of the U.S. Constitution, that the  
14 judicial power of the "United States" arises when the "United  
15 States " is a party.

16 "The Judicial Power shall extend to all Cases, in Law and  
17 Equity, arising under this Constitution, the Laws of the United  
18 States, and Treaties made, or which shall be made, under their  
19 Authority - to all Cases affecting Ambassadors, other public  
20 Ministers and Consuls; -- to all Cases of admiralty and maritime  
21 jurisdiction; -- to Controversies to which the United States  
22 shall be a Party;"  
23

24 Article III, Section 2 of the U.S. Constitution.

25 "Party" is defined in Bouvier's Law Dictionary to include  
26 both Plaintiff and Defendant.  
27

1 By substituting 'UNITED STATES OF AMERICA' [sic] for  
2 "United States", particularly in a UNITED STATES DISTRICT COURT,  
3 it would appear the U.S. Department of Justice seeks to avoid  
4 invoking the judicial power of a constitutional court (like that  
5 of a "district court of the United States"" or the U.S. Supreme  
6 Court) in favor of a court operating in legislative mode, where  
7 fundamental Rights are not guaranteed, but merely privileges  
8 granted (or denied) at the discretion of legislative tribunals.  
9 See *American Insurance v. 356 Bales of Cotton*, 1 Pet. 511, 7  
10 L.Ed. 242 (1828) (C.J. Marshall's seminal ruling, still  
11 standing); and *Balzac v. Porto Rico*, 258 U.S. 298, 312 (1922)  
12 (The USDC is not a true United States court established under  
13 Article III.).  
14  
15

16 This tainting of the judicial machinery and  
17 misrepresentation by the U.S. Department of Justice is not only  
18 a fraud upon the court but a fraud upon We the People - and a  
19 fraud upon this Petitioner who believed the Respondent in this  
20 instant case was a proper party.  
21

22 The prosecutor claims to be a "US" Attorney, not a "USA"  
23 Attorney and, as explained, "United States" and "UNITED STATES  
24 OF AMERICA" [sic] are not, in fact, one and the same. The  
25 prosecutor does not enjoy general Powers of Attorneys to  
26 represent a Washington, Delaware, UK, or any other foreign  
27

1 entity registered or unregistered, in federal court; Congress  
2 never appropriated funds for, or conferred any such Powers of  
3 Attorney upon the prosecutor or the U.S. Department of Justice.

4 Accordingly, it is willful misrepresentation for a U.S.  
5 Attorney to attempt to appear in any State or federal court on  
6 behalf of "UNITED STATES OF AMERICA" [sic]. Misrepresentation  
7 is actionable under the McDade Act at 28 U.S.C. section 530(B)  
8 (Ethical standards for attorneys for the government).  
9

10 This Court may not arbitrarily dismiss as "frivolous"  
11 Petitioner's assertion that "UNITED STATES OF AMERICA" [sic] was  
12 never the valid Plaintiff in these proceedings and as such, is  
13 not a party with standing. Rather, the "UNITED STATES OF  
14 AMERICA" [sic], of its own accord, must demonstrate its own  
15 standing, which it may do by a good-faith showing of any one or  
16 more of the following:  
17

- 18 1. Any legal and relevant charter plainly showing "United States" and "UNITED  
19 STATES OF AMERICA" [sic] are legally one and the same (i.e. United States – or  
20 United States federal government dba UNITED STATES OF AMERICA);
- 21 2. Any relevant U.S. Code where "UNITED STATES OF AMERICA" [sic] is explicitly  
22 defined as synonymous with the United States federal government for the express  
23 purpose of appearing in federal court;
- 24 3. Any evidence the *Eisner* Prohibition does not prohibit the re-defining of terms like  
25 "United States" and "United States of America" as originally used by the Founders  
26 in the Constitution;
- 27 4. Any evidence "United States of America", as used in 28 U.S.C. section 1746, is not  
in contradistinction to "United States";



- 1 5. Any Act of Congress explicitly conferring equal legal standing upon "United States"
- 2 and "UNITED STATES OF AMERICA" [sic]; or
- 3 6. Any evidence Congress has conferred general Powers of Attorney upon the
- 4 prosecutor to represent foreign entity, "UNITED STATES OF AMERICA" [sic], in
- 5 federal court.

6 "UNITED STATES OF AMERICA" [sic], as appearing in this  
7 instant case, is nothing more than an  
8 uninvited third party interloper who is not a proper party, has  
9 no standing, and was never authorized in this action to begin  
10 with.

11 Finally, after the prosecutor filed a Notice of Appearance  
12 on behalf of the "UNITED STATES OF AMERICA" [sic], it would  
13 appear the prosecutor has not yet secured proper admission into  
14 the district pursuant to Local Rules. As of this date, no  
15 proper petition for admission appears on the record. See  
16 *Pumphrey v. K.W. Thomp. Tool Co.*, 62 F.3d 1128 (9<sup>th</sup> Cir. 1995).

17 Therefore, because "UNITED STATES OF AMERICA" [sic] is not  
18 a proper party with standing, and because standing can be raised  
19 by any party at any time, and because the United States has not  
20 appeared to date, and because certain actions by prosecutors may  
21 have constituted a fraud upon the court and/or willful  
22 subversion of the U.S. Constitution contrary to mandatory Oaths  
23 of Office (See 28 U.S.C. section 544 and 5 U.S.C. sections 3331-  
24 3333, Standard Form 61 Appointment Affidavits), it is prayed  
25  
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1 that this Honorable Court strike any Indictment and charge,  
2 strike any Notice of Appearance by Prosecutors, as well as any  
3 filings by the government, call for the immediate cessation of  
4 D.O.J.'s malicious and bad-faith prosecution, and enter a  
5 Default Judgment in favor of Petitioner in accordance with this  
6 Motion and declare Petitioner actually innocent of any alleged  
7 crimes.  
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9 Dated this 5th day of June, 2012.  
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12 Respectfully submitted,  
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14 Shawn Talbot Rice

15 ~~Sean~~ Talbot Rice  
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